IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

TROY ALAN CROMLEIGH, Petitioner v.) C.A. No. 09-14 Erie
COMMONWEALTH OF PENNSYLVANIA, et al., Respondents.	Chief Magistrate Judge Baxter)
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION I. RECOMMENDATION	
transferred to the Middle District of Pennsyl	Ivania.
II. REPORT	
This is a petition for writ of habeas of	corpus, pursuant to 28 U.S.C. § 2254, filed by a state
prisoner presently incarcerated at the State C	Correctional Institution at Albion in the Western
District of Pennsylvania.	
In his petition, Petitioner Troy Alan	Cromleigh claims that he is being held
"involuntarily" pursuant to an allegedly illeg	gal sentence imposed by the Court of Common Pleas
of Perry County, Pennsylvania. Title 28 U.S	S.C. §2241(d) provides that where an application for
a writ of habeas corpus is made by a person	in custody under the judgment and sentence of a
state court of a state which contains two or i	more federal judicial districts,

the application may be filed in the district court for the district wherein such person is in custody or in the district court for the district within which the state court was held which convicted and sentenced him and each of such district courts shall have concurrent jurisdiction to entertain the application. The district court for the district wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

28 U.S.C. §2241(d). See also, Bell v. Watkins, 692 F.2d 999 (5th Cir. 1982) (the district court

transferred the action on the basis of the magistrate's recommendation which indicated that the

district where the defendant was convicted was the more convenient forum because of the

accessibility of evidence).

In the case at bar, Petitioner was apparently tried and convicted of the challenged

offenses in Perry County, Pennsylvania. Petitioner's records are located there. He is presently

incarcerated at the State Correctional Institution at Albion, within the Western District of

Pennsylvania. Perry County is located in the Middle District of Pennsylvania. This Court finds

that the interests of justice would be better served by transferring this petition to the Middle

District of Pennsylvania wherein all activity in this case occurred.

III. **CONCLUSION**

It is respectfully recommended that the petition for writ of habeas corpus be transferred

to the United States District Court for the Middle District of Pennsylvania pursuant to 28 U.S.C.

§2241(d).

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and

Local Rule 72.1.4 B, the parties are allowed ten (10) days from the date of service to file written

objections to this report. Any party opposing the objections shall have seven (7) days from the

date of service of objections to respond thereto. Failure to timely file objections may constitute a

waiver of some appellate rights. See, e.g., Nara v. Frank, 488 F.3d 187 (3d Cir. 2007).

S/Susan Paradise Baxter

SUSAN PARADISE BAXTER

Chief U.S. Magistrate Judge

Dated: January 30, 2009

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